

Application No.: 09/913,833

Docket No.: 21499-00050-US

REMARKS

Claims 1-16 and 23-36 are now pending in this application. Claims 17-22 have been canceled, and claims 23-36 have been added by this amendment. Applicant reserves the right to file a divisional application addressed to the canceled claims 17-22 which were withdrawn from consideration by the Examiner. No new matter is implicated by any new claim.

Allowable Subject Matter

Claims 2-10 and 12-16 were indicated as allowable if rewritten in independent form and to overcome formal objections. Claim 2 has been rewritten in independent form.

Claim Rejections under 35 U.S.C. 112

Claims 2-10 and 12-16 stand rejected under 35 U.S.C. 112, second paragraph as being indefinite. Applicant respectfully traverses.

By this amendment, claim 2 is rewritten in independent form and no longer includes the limitation "or fillable." Claim 2 is therefore addressed to the pre-filled embodiment. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. 112.

Claim Rejections under 35 U.S.C. 102(b)

Claim 1 stands rejected under 35 U.S.C. 102(b) as being anticipated by Keller (U.S. Pat. No. 5,330,357). Applicant respectfully traverses.

By this amendment, claim 1 is amended to recite:

a closed first elongate and flexible container means having one end provided with a string to enable insertion of said first container means into an interdental space adjacent the portion of said tooth, from which approximal caries has been removed.

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Keller fails to disclose a "string to enable insertion of said first container means into an interdental space" as recited in claim 1. By contrast, Keller's device 30 (shown in Figures 7-9) applies medicament through a brush head 33. Similarly, the device 53 (shown in Figures 15-17) applies medicament through an applicator nozzle 59. There is no need for a string in these embodiments because an "elongate and flexible container means" is not inserted in an interdental space. Keller therefore fails to disclose the combination of elements recited in claim 1.

Amended claim 3 recites

a closed first elongate and flexible container means having one end provided with a string to enable insertion of said first container means into an interdental space adjacent the portion of said tooth, from which approximal caries has been removed; and a second closed and flexible container means attached to the device.

As discussed above, Keller fails to disclose a "string to enable insertion of said first container means into an interdental space." Keller also fails to disclose a "second closed and flexible container means attached to the device." Keller therefore fails to disclose the combination of elements recited in claim 3.

New claim 23 recites:

a closed first elongate and flexible container having means for inserting the first container into an interdental space between two adjacent teeth, said first container means being prefilled with a flowable restorative material which is disposed to flow into and fill a tunnel preparation when a hole has been punched into said first container means.

Referring to Figures 15-17, Keller's device 53 does not have "means for inserting the first container into an interdental space between two adjacent teeth. As shown in Figure 17, medicament is delivered via an applicator nozzle 59, and the packet 53 is not intended for insertion in an interdental space. Keller therefore fails to disclose the combination of elements recited in claim 23.

In light of the above remarks, claims 1, 3 and 23 define over Keller. Applicant therefore respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. 102(b).

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Claim 1 stands rejected under 35 U.S.C. 102(b) as anticipated by Suhonen (U.S. Pat. No. 6,007,334). Applicant respectfully traverses.

Referring to Figure 4, Suhonen's device includes an elongated balloon 10 having a tip 12. Referring to Figures 5-8, the balloon 10 is meant to apply a matrix band 23 against a tooth (see column 7, lines 26-29). Suhonen therefore fails to disclose a "a closed first elongate and flexible container means having one end provided with a string to enable insertion of said first container means into an interdental space." Suhonen's balloon 10 is also not "prefilled" as recited in claim 1. Suhonen therefore fails to disclose the combination of elements recited in claim 1. Suhonen also fails to disclose the combination of elements recited in claim 3.

Suhonen fails to disclose a "first container means being prefilled with a flowable restorative material which is disposed to flow into and fill a tunnel preparation when a hole has been punched into said first container means," as recited in claim 23. By contrast, Suhonen's balloon 10 is filled with inflation fluid.

In light of the above remarks, claims 1, 3 and 23 define over Suhonen. Applicant therefore respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. 102(b).

Claim 1 stands rejected under 35 U.S.C. 102(b) as being anticipated by Cheetam (5,816,805). Applicant respectfully traverses.

Referring to Figure 1, Cheetam's dental amalgam capsule 10 introduces amalgam through a conduit 28 after removing a plug 30. Cheetam does not disclose a prefilled container having a string as recited in claims 1 and 3.

Cheetam also fails to disclose a closed first elongate and flexible container having "means for inserting the first container into an interdental space between two adjacent teeth" that is "prefilled with a flowable restorative material which is disposed to flow into and fill a tunnel preparation when a hole has been punched into said first container means" as recited in claim 23.

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In light of the above remarks, claims 1, 3 and 23 define over Cheetam. Applicant therefore respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. 102(b).

Claim 11 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Suhonen. Applicant respectfully traverses.

The examiner states that it is known to make nylon opaque. The Examiner's statement of obviousness is insufficient to overcome Suhonen's failure to disclose the combination of elements recited in claim 1. Applicant therefore respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. 103(a).

Abstract

The Examiner states that the application does not contain an abstract of the disclosure. Applicant provided an abstract in the Response filed October 14, 2003. Applicants therefore respectfully request withdrawal of the objection to the specification.

Conclusion

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

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Applicant file concurrently herewith a Petition for Extension of Time due with this response. Please charge any other fees to our Deposit Account No. 22-0185, under Order No. 21499-00050-US from which the undersigned is authorized to draw.

Dated: March 18, 2004

Respectfully submitted,

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